

**IN THE SECOND CIRCUIT COURT FOR DAVIDSON COUNTY TENNESSEE
TWENTIETH JUDICIAL DISTRICT**

STATE OF TENNESSEE , *ex rel.*)
ROBERT E. COOPER, JR.,)
ATTORNEY GENERAL and REPORTER,)

Plaintiff,)

v.)

HRC MEDICAL CENTERS, INC.,)
A domestic corporation, *formerly*)
known as HAIR RESTORATION)
CENTERS OF TENNESSEE, INC., et al.,)

Defendants.)

**JURY DEMAND
Case No. 12C4047**

FILED
2014 JUL 22 PM 2:13
RICHARD B. ROOPER, CLERK
[Signature]

ORDER

This matter came to be heard on the 18th day of June, 2014, upon the joint petition filed by Plaintiff, State of Tennessee, ex rel. Robert E. Cooper, Jr., Attorney General and Reporter (hereinafter, "STATE") and the Receiver, John C. McLemore (hereinafter, "Receiver"), seeking civil contempt against Defendants:

- a. Don Hale and Dan Hale for their purported failure to abide by the Court's Order of May 29, 2013;
- b. Dixie Hale for her purported failure to abide by the Court's Order of August 20, 2013; and,

- c. Don Hale and Dixie Hale for their purported failure to abide by the Court's Order of December 27, 2013.

The Court finds that the three named Defendants shall provide additional information to the Receiver. The three named Defendants shall provide the additional information by August 15, 2014 or each shall be held in civil contempt, incarcerated, and fined \$50.00 per day for each day past August 15, 2014.

The information is as set forth in: three letters each being dated September 12, 2013; one letter dated April 16, 2014; and one letter dated June 20, 2014. Each letter is attached hereto as a collective Exhibit, the contents of which are incorporate herein by reference as though fully set forth at this place.

The Court hereby sets this matter upon its docket on August 29, 2014 for review of compliance with the terms of this Order. The three named Defendants are Ordered to appear on August 29, 2014 at noon before this Honorable Court at which time the Court shall determine the sufficiency of the answers provided by these Defendants.

The foregoing is hereby **ORDERED**.



Amanda McClendon, JUDGE

GMY Law

September 12, 2013

Via Certified U.S. Mail, Return Receipt Requested, and U.S. Mail, First Class

Mr. Don Hale
 650 Lysander Court
 Brentwood, TN 37027

RE: **Personal Assets of Don Hale**
State v. HRC Medical Centers, Inc. et al., Docket No. 12C4047 (Davidson Cty. Cir. Ct.)

Dear Mr. Hale:

I am writing you under the assumption that you have not retained counsel in this matter. If you have retained counsel, please have him or her contact me as soon as possible.

As you know, in orders dated May 29, 2013, and June 7, 2013, the Court froze your personal assets, and placed them under the control of court-appointed Receiver John C. McLeMore. The orders provide that the Receiver is to distribute recovered funds on your behalf, to the extent available, in order to make mortgage payments, motor vehicle payments and reasonable living expenses not exceeding \$2,500 per month.

You have not requested payment of any reasonable living expenses, which leads the Receiver to believe that the funds being used to satisfy living expenses are coming from undisclosed assets.

Pursuant to Sections B, C and D of the August 20, 2013, order appointing a receiver, please provide the following information to me no later than September 27, 2013:

1. a list of all assets owned by or available to you;
2. a list of all living expenses you paid or were paid on your behalf since April 26, 2013;
3. a list of all sources of funds used to pay the living expenses listed in response to number 2 above; and
4. copies of all documents, including but not limited to books and records of accounts, all financial and accounting records, balance sheets, income statements, bank records and other papers documenting the expenses listed pursuant to number 2 above and payment thereof.

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 Garfinkle, McLeMore & Young, PLLC
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 Nashville, Tennessee 37215
rgarfinkle@gmylaw.com
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 tel (615) 383.9495
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*Collective Exhibit to
 Order*

Richard R. Roeder, Clerk
 2014 JUL 22 PM 2:13
 FILED

September 12, 2013
Mr. Don Hale
Page 2

Finally on behalf of the Receiver, I hereby request that all documents, assets and other property belonging to HRC Medical be immediately turned over to the Receiver. It is my understanding that you may have removed property belonging to HRC Medical from the corporate headquarters after the receivership order was entered and that records or other property belonging to HRC Medical may be at your residence. Please contact me to arrange for the transfer of all such property.

If you choose to invoke your Fifth Amendment and related state constitutional rights against self-incrimination ("Fifth Amendment rights"), please indicate the specific number listed above to which you invoke your Fifth Amendment rights.

If you have any questions, please do not hesitate to contact me. Thank you for your prompt attention to this matter.

Sincerely,

Garfinkle, McLemore & Young, PLLC



ROBERT M. GARFINKLE
Counsel to John C. McLemore, Receiver

RMG/lacc

cc: Brant Harrell, Assistant Attorney General
Carolyn U. Smith, Senior Counsel
Office of the Tennessee Attorney General

GMY Law

September 12, 2013

Via Certified U.S. Mail, Return Receipt Requested, and U.S. Mail, First Class

Dan Hale, D.O.
4641 Spencer Hale Road
Morristown, TN 37813

RE: **Personal Assets of Dan Hale**
State v. HRC Medical Centers, Inc. et al., Docket No. 12C4047 (Davidson Cty. Cir. Ct.)

Dear Dr. Hale:

I am writing you under the assumption that you have not retained counsel in this matter. If you have retained counsel, please have him or her contact me as soon as possible.

As you know, in orders dated May 29, 2013, and June 7, 2013, the Court froze your personal assets, and placed them under the control of court-appointed Receiver John C. McLemore. The orders provide that the Receiver is to distribute recovered funds on your behalf, to the extent available, in order to make mortgage payments, motor vehicle payments and reasonable living expenses not exceeding \$2,500 per month.

You have not requested payment of any reasonable living expenses, which leads the Receiver to believe that the funds being used to satisfy living expenses are coming from undisclosed assets.

Pursuant to Sections B, C and D of the August 20, 2013, order appointing a receiver, please provide the following information to me no later than September 27, 2013:

1. a list of all assets owned by or available to you including any payments from health clinics in Alabama;
2. a list of all living expenses you paid or were paid on your behalf since April 26, 2013;
3. a list of all sources of funds used to pay the living expenses listed in response to number 2 above; and
4. copies of all documents, including but not limited to books and records of accounts, all financial and accounting records, balance sheets, income statements, bank records and other papers documenting the expenses listed pursuant to number 2 above and payment thereof.

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September 12, 2013
Dan Hale, D.O.
Page 2

If you choose to invoke your Fifth Amendment and related state constitutional rights against self-incrimination ("Fifth Amendment rights"), please indicate the specific number listed above to which you invoke your Fifth Amendment rights.

If you have any questions, please do not hesitate to contact me. Thank you for your prompt attention to this matter.

Sincerely,

Garfinkle, McLemore & Young, PLLC

A handwritten signature in black ink, appearing to read "Robert M. Garfinkle", with a long, sweeping horizontal line extending to the right.

ROBERT M. GARFINKLE
Counsel to John C. McLemore, Receiver

RMG/lacc

cc: Brant Harrell, Assistant Attorney General
Carolyn U. Smith, Senior Counsel
Office of the Tennessee Attorney General

GMY Law

September 12, 2013

Via E-mail and U.S. Mail, First Class

Wendell O'Reilly, Esq.
O'Reilly Law Firm
600 Georgia Avenue, Suite 1
Chattanooga, TN 37402-1477
orlellyfirm@gmail.com

RE: **Personal Assets of Dixie Hale**
State v. HRC Medical Centers, Inc. et al., Docket No. 12C4047 (Davidson Cty. Cir. Ct.)

Dear Wendell:

As you know, in orders dated April 26 and August 20, 2013, the Court froze the personal assets of Dixie Hale, individually and doing business as Southern Belle, LLC, and placed them under the control of court-appointed Receiver John C. McLemore. The orders provide that the Receiver is to distribute recovered funds of Mrs. Hale, to the extent available, in order to make mortgage payments, motor vehicle payments and reasonable living expenses not exceeding \$2,500 per month. Following entry of the order against Don Hale a few months ago, Dixie Hale produced some bills for living expenses to our office. Because you represented her as counsel, we have discussed this issue with you. We are waiting to hear back from you about the accounts and the expenses.

Because Dixie Hale has not requested payment of any other reasonable living expenses since accounts were frozen in early May, it leads the Receiver to believe that the funds being used to satisfy living expenses are coming from undisclosed assets.

Pursuant to Sections B, C and D of the August 20, 2013, order appointing a receiver, please provide the following information to me no later than September 27, 2013:

1. a list of all assets owned by, or available to, Dixie Hale, in her individual capacity or doing business as Southern Belle Consulting, LLC;
2. a list of all living expenses paid by or on behalf of Dixie Hale since April 26, 2013;
3. a list of all sources of funds used to pay the living expenses listed in response to number 2 above; and

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September 12, 2013
Wendell O'Reilly, Esq.
Page 2

4. copies of all documents, including but not limited to books and records of accounts, all financial and accounting records, balance sheets, income statements, bank records and other papers documenting the expenses listed pursuant to number 2 above and payment thereof.

Finally, Mrs. Hale testified in her deposition that documents (and possibly other items) belonging to HRC Medical, that were previously kept in a storage unit to which she had access, are currently in her residence. (See Dixie Hale's deposition, pp. 146-150.) On behalf of the Receiver, I hereby request that all documents, assets and other property belonging to HRC Medical be immediately turned over to the Receiver. Please contact me to arrange for the transfer of all such property.

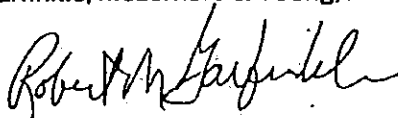
If your client chooses to invoke her Fifth Amendment and related state constitutional rights against self-incrimination ("Fifth Amendment rights") with regard to any of the above requests, please indicate the specific number listed above to which she invokes her Fifth Amendment rights and the legal justification for why the Fifth Amendment right is applicable.

If you have any questions, please do not hesitate to contact me. Thank you for your prompt attention to this matter.

With best regards,

Sincerely,

Garfinkle, McLemore & Young, PLLC



ROBERT M. GARFINKLE
Counsel to John C. McLemore, Receiver

RMG/lacc

cc: Brant Harrell, Assistant Attorney General
Carolyn U. Smith, Senior Counsel
Office of the Tennessee Attorney General

April 16, 2014

Wm. Kennerly Burger, Esq.
Burger Law Firm
12 Public Square North
Murfreesboro, TN 37130
kenburger@comcast.net
Via E-Mail and U.S. Mail, First Class

Wendell O'Reilly, Esq.
330 Franklin Road
Suite 135-289
Brentwood, TN 37027-3282
oreillyfirm@gmail.com
Via E-Mail and U.S. Mail, First Class

RE: *State v. HRC Medical Centers, Inc. et al.*, Docket No. 12C4047

Dear Ken and Wendell:

As you know, on behalf of Receiver John C. McLemore, I sent letters on September 12, 2013, requesting information from your clients, Don Hale, Dixie Hale and Dan Hale, under the authority of the December 27, 2012, May 29, 2013, and August 20, 2013, temporary injunction, asset freeze and receivership orders. The *only* response to these letters was the boxes of HRC Medical documents delivered to our office by Mr. O'Reilly on behalf of Don and Dixie Hale, on March 21, 2013.¹ And, based on the deposition testimony of Dixie Hale, it appears that the boxes may not contain all of the HRC Medical documents in possession of Don and Dixie Hale.

Although Defendants Don Hale, Dixie Hale and Dan Hale were deposed, they have not complied with the September 12, 2013, requests. Testimony elicited during the depositions confirmed that Defendants have not been completely forthcoming about their income sources and the individuals who have assisted in paying their living expenses. The information and documentation requested by the Receivership Orders is needed for the Receiver to perform his court-ordered functions.

¹ The financial statements that were completed by Don and Dixie Hale were done prior to September 12, 2013, and they were required under the *Ex Parte* Statutory Temporary Restraining Order with Asset Freezes and Order Appointing *Pendente Lite* Receiver entered April 26, 2013 – they were not completed in response to the Receiver's September 12th request for information.

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fax (615) 292.9848

April 16, 2014
Wm. Kennerly Burger, Esq.
Wendell O'Reilly, Esq.
Page 2

While the Receiver and State have filed a Joint Petition for Civil Contempt against Don Hale, Dixie Hale and Dan Hale based on their failure to comply with the orders referenced above and the Receiver's September 12th request for information, the fact remains that Don Hale, Dixie Hale and Dan Hale are still obligated to respond to the Receiver's September 12th request.

To that end, I again request on behalf of the Receiver, under the authority of the orders referenced above, that Don Hale, Dixie Hale and Dan Hale provide the following information:

Don Hale

1. a list of all assets owned by, or available to, Don Hale;
2. a list of all living expenses paid by or on behalf of Don Hale since April 26, 2013;
3. a list of all sources of funds used to pay the living expenses listed in response to number 2 above; and
4. copies of all documents, including but not limited to books and records of accounts, all financial and accounting records, balance sheets, income statements, bank records and other papers documenting the expenses listed pursuant to number 2 above and payment thereof.
5. All remaining documents, assets and other property belonging to HRC Medical.

Dixie Hale

1. A list of all assets owned by, or available to, Dixie Hale, in her individual capacity or doing business as Southern Belle Consulting, LLC;
2. A list of all living expenses paid by or on behalf of Dixie Hale since April 26, 2013;
3. A list of all sources of funds used to pay the living expenses listed in response to number 2 above; and
4. Copies of all documents, including but not limited to books and records of accounts, all financial and accounting records, balance sheets, income statements, bank records and other papers documenting the expenses listed pursuant to number 2 above and payment thereof.
5. All remaining documents, assets and other property belonging to HRC Medical.

Dan Hale

1. A list of all assets owned by, or available to, Dan Hale;
2. A list of all living expenses paid by or on behalf of Don Hale since April 26, 2013;

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Wm. Kennerly Burger, Esq.
Wendell O'Reilly, Esq.
Page 3

3. A list of all sources of funds used to pay the living expenses listed in response to number 2 above; and
4. Copies of all documents, including but not limited to books and records of accounts, all financial and accounting records, balance sheets, income statements, bank records and other papers documenting the expenses listed pursuant to number 2 above and payment thereof.

Finally, as a collective late-filed exhibit to his April 1, 2014, deposition, Don Hale was supposed to produce documents related to the MONY account that he identified as a retirement account. Specifically, Don Hale agreed to produce account statements dating back to June 2013 and any documentation regarding the account with respect to it being a retirement account. (See Don Hale depo. testimony, beginning at p. 55) Neither the Receiver nor I have received these documents and it is my understanding that the court reporter has not received them either. Please forward these documents immediately.

I appreciate your immediate attention to these matters. Please feel free to contact me if you have any questions.

Sincerely,

GARFINKLE, McLEMORE & YOUNG, PLLC

A handwritten signature in cursive script, appearing to read "Bobby Garfinkle".

Robert M. Garfinkle
Counsel to John C. McLemore, Receiver
(615) 383-9495

June 20, 2014

The Honorable Amanda Jane McClendon
Twentieth Judicial District, Division II
506 Metropolitan Courthouse
Nashville, Tennessee 37201

RE: ***State v. HRC Medical Centers, Inc.*** et al., Docket No. 12C4047

Dear Judge McClendon:

At the June 18th hearing on the State and Receiver's Joint Petition for Civil Contempt, the Court asked me to provide a general and specific list of information and documentation needed to fulfill the Receiver's duties under the three receivership orders.

Following the continuation of the March 18, 2014, hearing on the Joint Petition, depositions of Defendants Don Hale, Dixie Hale, and Dan Hale were ordered and took place on April 1, 2014.

At the depositions, the Defendants referred to assets and transactions that were not disclosed in financial statements that Bonnie Hale, Don Hale, and Dixie Hale submitted in June 2013¹ and numerous other assets and transactions concerning the payment of living expenses that had not been disclosed to the Receiver.²

After the depositions, the State and the Receiver learned of additional income that was not reported in and directly contradicted Dan Hale's deposition testimony³ and other income that Don and Dixie Hale failed to disclose when asked in their respective depositions on April 1, 2014.⁴

Additionally, at the depositions, I asked for documentation on select accounts that were to be provided as late-filed exhibits. These documents were never provided. Following the

¹ Depo. of Dan Hale, 53:17-25, 54:1, 60:2-7 (referring to \$18,000 in income that was not disclosed on the June 2013 financial statement that Dan Hale asserts he completed for Bonnie Hale). Joint Pet., Aff. of John C. McLemore, ¶5; Depo. of Don Hale, 19:9-18; Depo. of Dixie Hale, 15:23-25 (referring to undisclosed \$350 monthly income from hair replacement services not disclosed on June 2013 financial statement).

² Depo. of Don Hale, 18:22-25; 19:1-15 (unspecified undisclosed cash); Depo. of Don Hale, 19:9-18, Depo. of Dixie Hale, 15:23-25, 20:6-16, 20:23-25, 21:1-3, 56:16-25, 57:1-7, 82:19-25 (unspecified separate banking account in Gary Roy's name used exclusively to pay living expenses and also gift cards used to pay living expenses); Depo. of Dan Hale, 29:19-25, 30:1-12 (unspecified bank account in daughter's name used to pay bills).

³ Cf. Joint Pet. Ex. 11, Decl. of Michael Montemurro, ¶4 (referring to payment of \$1,735.98 for BHRT consulting services and travel reimbursement paid to Dan Hale around October 25, 2013); Depo. of Dan Hale, 57:6-8: (Q: "Were there any other clinics of any kind that you were doing consulting work for in 2013?" Dan Hale: "No."),

⁴ Cf. Joint Pet. Ex. 11, Decl. of Michael Montemurro, ¶15 (referencing Mr. Montemurro paid Don Hale \$3,000); Depo. of Don Hale, 19:16-25, 20:1-7; 22:10-13 (Testimony with no reference to Montemurro).

depositions, I sent a letter on April 16, 2014, that, among other things, requested documentation concerning the payment of living expenses paid on behalf of Don Hale, Dixie Hale, and Dan Hale since April 26, 2013. This request mirrored the request the Receiver had made on September 12, 2013. Both letters are attached to this correspondence. None of the Defendants have provided this documentation to date to the Receiver.

Aside from the general requests contained in the April 16, 2014, letter, the Defendants have not provided and the Receiver believes he needs the following to fulfill his court-ordered duties:

- The account number and any bank records or other documentation concerning the dissipation of the \$68,000 cash-on-hand referenced on Don and Dixie Hale's financial statement that was held at one time at Fifth Third Bank (Depo. of Dixie Hale 43:8-14);
- The account number and any account records for the approximately \$38,000 contained in the MONY account referenced on Don and Dixie Hale's June 2013 financial statement since April 26, 2013, (Depo. of Don Hale 55:5-25, 56:1-4);
- The account number and any account records for the SunTrust account that Dixie Hale referenced in her deposition as containing approximately \$36-\$38,000 (Depo. of Dixie Hale 43:16-25, 44:1-6);
- Any available documentation concerning the cash-on-hand that Don and Dixie Hale have held at their house or otherwise since April 26, 2013, (Depo. of Dixie Hale, 15:15-22, Depo. of Don Hale 18:11-25, 19:1-8);
- Any bank records concerning the account at U.S. Bank or otherwise in the name of Gary Roy used to receive income and pay Don and Dixie Hale's living expenses (Depo. of Dixie Hale 20:9-16);
- Any bank records concerning the account in the name of Defendants Dan Hale and Bonnie Hale's daughter Meredith that has been used to pay living expenses for Dan Hale and Bonnie Hale (Depo. of Dan Hale, 29:12-25; 30:1-25);
- Any documentation, including e-mails, from or to Wayne Brayfield, Tim Thompson, Don Galusha, Gary Roy, Les Clark or other individuals, who have paid cash or otherwise paid for Don and Dixie Hale's living expenses (Depo. of Don Hale, 19:9-25, 20:1-25, 21:1-25, 22:1-15);
- Any money order receipts, bank records, or other items documenting the amount Defendants Dan Hale and Bonnie Hale receive from "land grant" contracts since April 26, 2013, (Depo. of Dan Hale 2:3-25);

- Any credit card statements since April 26, 2013, from the MasterCard account in Dan Hale or Bonnie Hale's name referenced in Dan Hale's deposition (Depo. of Dan Hale 22:2-6);
- Any credit card statements since April 26, 2013, from the Visa account in Don Hale or Dixie Hale's name referenced in Dixie Hale's deposition (Depo. of Dixie Hale 39:19-25, 40:11-18);
- Any credit card statements since April 26, 2013, from the Nordstrom's account in Don Hale or Dixie Hale's name referenced in Dixie Hale's deposition (Depo. of Dixie Hale 40:19-25);
- Any bank receipts or other records from SunTrust or otherwise documenting the \$350 in monthly income Defendant Don Hale received since April 26, 2013, (Depo. of Don Hale 37:20-25, 38:1-21);
- An itemization and documentation of any money received by Don Hale, Dixie Hale individually or doing business as Southern Belle, Bonnie Hale, Dan Hale, or any individual acting on his or her behalf since December 27, 2012, from the following HRC-branded facilities, related facilities, or their successors: Austin, Baltimore, Birmingham, Charleston, Cincinnati, Colorado Springs, Columbia, Dallas, Frisco, Denver, Des Moines, Huntsville, Indianapolis, Jacksonville, Kansas City, Louisville, Memphis, Minneapolis, Mobile, Nashville, Chicago, Oklahoma City, Omaha, Richmond, San Antonio, St. Louis, Tampa, Tucson, or Virginia Beach that before commencement of the HRC Medical Centers, Inc. Receivership paid money to HRC Medical as part of an administrative services fee or otherwise; and
- An itemization and documentation of any money received by Don Hale, Dixie Hale individually or doing business as Southern Belle, Bonnie Hale, Dan Hale, or any individual acting on his or her behalf since December 27, 2012, from the following individuals who have been associated with HRC-branded facilities: Rod Delmonico, David Ivey, Linda Lusby, Frank Paris, Scott Chastain, Shyrl Ivey, Les Clark, Penny Clark, Frank Paris, Scott Chastain, Henry Robbins, Grisel Wiley, Art Mattson, Doris Mattson, Nick Conforti, Don Cameron, Michael Montemurro, Mark Fleener, Shane Dodgen, or Jeff Bowles; who had an ownership interest in HRC-branded clinics or related facilities that paid money to HRC Medical as part of an administrative services fee or otherwise.

Aside from being referenced at the depositions and one year-old financial statements, all the Receiver has is the Defendants' deposition testimony, which was incomplete by Defendants' counsel own admission.

The Receiver believes that the information referenced above along with written responses to the April 16, 2014, letter, and turnover of any remaining HRC Medical Centers, Inc. documents, are needed to accomplish his court-ordered duties.

Respectfully,



Robert M. Garfinkle, Esq.
Garfinkle, McLemore & Young, PLLC
2000 Richard Jones Road, Suite 250
Nashville, Tennessee 37215
bgarfinkle@gmylaw.com
Tel: (615) 383-9495
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Counsel for the Receiver

Enclosures

cc: Wm. Kennerly Burger, Esq.
Burger Law Firm
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Murfreesboro, TN 37130
kenburger@comcast.net
Via E-Mail and U.S. Mail, First Class

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Via E-mail, U.S. Mail, First Class

Certificate of Service

I hereby certify that a true and exact copy of the foregoing order has been mailed US Postal Service to the following persons:

Wm. Kennerly Burger
Burger Law Firm
12 Public Square North
Murfreesboro, TN 37130

Wendell O'Reilly
330 Franklin Rd. Ste. 135-289
Brentwood, TN 37027

Joseph R. Judkins
Judkins Law Firm
1143 Oak Ridge Turnpike
Oak Ridge, TN 37830

Christina Daugherty
Daugherty, Haas & Associates, PLLC
321 Billingsly Ct., Ste. 16
Franklin, TN 37064

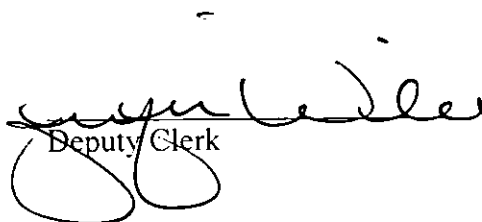
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Brant Harrell
Carolyn U. Smith
Office of the Attorney General
425 Fifth Avenue North, 2nd Fl. CHB
Nashville, TN 37243

Dana Helton, Trustee, Cardinal
Revocable Trust
408 W. Meadecrest Drive
Knoxville, TN 37923

This 22ND day of July 2014.


Deputy Clerk